

House File 2690 - Introduced

HOUSE FILE _____
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO HSB 788)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to student loans, including the protection of
2 students and parents from certain lenders and institutions of
3 higher education with conflicts of interest, establishing a
4 student lending education fund, establishing penalties, and
5 providing for related matters.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 5962HV 82
8 kh/nh/8

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1 1 Section 1. NEW SECTION. 261.38A IOWA STUDENT LOAN
1 2 LIQUIDITY CORPORATION == OPEN RECORDS AND MEETINGS ==
1 3 LEGISLATIVE REVIEW.
1 4 1. The Iowa student loan liquidity corporation is not a
1 5 state agency or a governmental entity as defined in section
1 6 8A.101, but shall be deemed to be a governmental body for
1 7 purposes of chapters 21 and 22. Chapter 17A does not apply to
1 8 the corporation.
1 9 2. The Iowa student loan liquidity corporation shall
1 10 submit an annual report to the governor, general assembly, and
1 11 the auditor of state by January 15 setting forth the
1 12 corporation's operations and activities conducted and newly
1 13 implemented in the previous fiscal year and the outlook for
1 14 the future. The report shall describe how the Iowa student
1 15 loan liquidity corporation's activities serve its nonprofit
1 16 mission to help students and parents obtain the financial
1 17 resources necessary for a postsecondary education. The annual
1 18 audit of the corporation shall be filed with the office of
1 19 auditor.
1 20 3. The designation of the student loan secondary market
1 21 and the operations of the Iowa student loan liquidity
1 22 corporation shall be subject to annual legislative review.
1 23 The review shall at a minimum consider the reports submitted
1 24 by the corporation.
1 25 4. The obligations of the Iowa student loan liquidity
1 26 corporation are not obligations of this state or any political
1 27 subdivision of this state within the meaning of any
1 28 constitutional or statutory debt limitations, but are
1 29 obligations of the corporation payable solely and only from
1 30 the corporation's funds. The corporation shall not and cannot
1 31 pledge the credit or taxing power of this state or any
1 32 political subdivision of this state or make its debts payable
1 33 out of any moneys except those of the corporation.
1 34 Sec. 2. NEW SECTION. 261E.1 DEFINITIONS.
1 35 As used in this chapter, unless otherwise specified:
2 1 1. "Administrator" means either the attorney general or
2 2 the attorney general's designee. The attorney general may
2 3 charge the college student aid commission in a case involving
2 4 a covered institution, or the superintendent of banking,
2 5 credit unions, or savings and loans, in a case involving a
2 6 lender or secondary market and concerning private educational
2 7 loans, with enforcing this chapter against the person under
2 8 investigation.
2 9 2. "Borrower" means a student attending a covered
2 10 institution in this state, or a parent or person in parental
2 11 relation to such student, who also obtains an educational loan
2 12 from a lending institution to pay for or finance higher
2 13 education expenses.
2 14 3. "Covered institution" means any educational institution

2 15 that offers a postsecondary educational degree, certificate,
2 16 or program of study and receives any federal Title IV funds
2 17 under the federal Higher Education Act of 1965, as amended, or
2 18 state funding or assistance. "Covered institution" includes
2 19 an authorized agent of the educational institution, including
2 20 an alumni association, booster club, or other organization
2 21 directly or indirectly associated with the institution.
2 22 4. "Covered institution employee" means any employee,
2 23 agent, contractor, director, officer, or trustee of a covered
2 24 institution.
2 25 5. "Educational loan" means any loan that is made,
2 26 insured, or guaranteed under Title IV of the federal Higher
2 27 Education Act of 1965, as amended, any high-risk loan, or any
2 28 private educational loan issued by a lending institution for
2 29 the purposes of paying for or financing higher education
2 30 expenses. "Educational loan" shall not include a loan issued
2 31 by a creditor and secured by a dwelling or under an open end
2 32 credit plan. For purposes of this subsection, "creditor",
2 33 "dwelling", and "open end credit plan" have the meanings given
2 34 such terms in section 103 of the federal Truth in Lending Act,
2 35 15 U.S.C. } 160.
3 1 6. "Gift" means any discount, favor, gratuity, inducement,
3 2 loan, stock, thing of value, or other item having a monetary
3 3 value of more than ten dollars.
3 4 a. The term "gift" includes but is not limited to:
3 5 (1) Any money, service, loan, entertainment, honoraria,
3 6 hospitality, lodging costs, meals, registration fees, travel
3 7 expenses, discount, forbearance, or promise.
3 8 (2) Gifts provided in kind, by purchase of a ticket,
3 9 payment in advance, or reimbursement after expenses have been
3 10 incurred.
3 11 (3) Any computer hardware for which the recipient pays
3 12 below-market prices.
3 13 (4) Any printing costs or services.
3 14 b. The term "gift" does not include any of the following:
3 15 (1) A lending institution's own brochure or promotional
3 16 literature.
3 17 (2) Food, refreshments, training, or informational
3 18 material furnished to a covered institution employee as an
3 19 integral part of a training session, if such training
3 20 contributes to the professional development of the covered
3 21 institution employee.
3 22 7. "High-risk loans" means any agreement between a lending
3 23 institution and a covered institution that provides for the
3 24 lending institution to provide loans to borrowers with poor
3 25 credit scores or no credit history, who would otherwise not be
3 26 eligible for educational loans.
3 27 8. "Higher education expenses" includes all of the
3 28 following:
3 29 a. Tuition and fees.
3 30 b. Costs incurred for books, supplies, transportation, and
3 31 miscellaneous personal expenses.
3 32 c. Room and board costs.
3 33 9. "Lender" or "lending institution" includes but is not
3 34 limited to an agent of a lender, a national or state chartered
3 35 bank, a mutual savings bank, a savings and loan association, a
4 1 stock savings bank, a credit union, a pension fund as defined
4 2 under the federal Employee Retirement Income Security Act of
4 3 1974, an insurance company, a single nonprofit private agency
4 4 designated by the state to serve as a secondary market, an
4 5 agency of any state functioning as a secondary market, and a
4 6 consumer finance company. "Creditor", "dwelling", and "open
4 7 end credit plan" have the meanings given such terms in section
4 8 103 of the federal Truth in Lending Act, 15 U.S.C. } 1602.
4 9 c. Any industry, trade, or professional association or
4 10 other entity that receives money from any entity described in
4 11 paragraph "a" or "b".
4 12 10. "Preferred lender list" means a list of three or more
4 13 recommended or suggested, unaffiliated lending institutions
4 14 that a covered institution makes available for use, in print
4 15 or any other medium or form, by borrowers, prospective
4 16 borrowers, or others.
4 17 11. "Private educational loan" means a private loan
4 18 provided by a lender that is not made, insured, or guaranteed
4 19 under Title IV of the federal Higher Education Act of 1965, as
4 20 amended, and is issued by a lender expressly for postsecondary
4 21 educational expenses to a borrower, regardless of whether the
4 22 loan involves enrollment certification by the educational
4 23 institution that the student for which the loan is made
4 24 attends.
4 25 12. "Revenue sharing" means any arrangement whereby a

4 26 lending institution pays a covered institution or an
4 27 affiliated entity or organization of such covered institution
4 28 a percentage of the principal of each loan directed towards
4 29 the lending institution from a borrower at the covered
4 30 institution.

4 31 Sec. 3. NEW SECTION. 261E.2 CODE OF CONDUCT.

4 32 1. A covered institution that participates in the federal
4 33 student loan programs under the Title IV of the federal Higher
4 34 Education Act of 1965, as amended, or has students who obtain
4 35 private educational loans shall do the following:

5 1 a. Develop, in consultation with the college student aid
5 2 commission, a code of conduct governing educational loan
5 3 activities with which the covered institution's officers,
5 4 employees, and agents shall comply.

5 5 b. Publish the code of conduct developed in accordance
5 6 with paragraph "a" prominently on its internet site.

5 7 c. Administer and enforce the code of conduct developed in
5 8 accordance with paragraph "a".

5 9 2. The college student aid commission shall provide to
5 10 covered institutions assistance and guidance relating to the
5 11 development, administration, and monitoring of a code of
5 12 conduct governing educational loan activities.

5 13 Sec. 4. NEW SECTION. 261E.3 LENDING INSTITUTION
5 14 PROHIBITIONS.

5 15 A lending institution shall not do any of the following:

5 16 1. Directly or indirectly, offer or provide any gift to a
5 17 covered institution or a covered institution employee in
5 18 exchange for any advantage or consideration provided to such
5 19 lending institution related to its educational loan
5 20 activities.

5 21 2. Engage in revenue sharing with a covered institution.

5 22 3. Pay a fee to, or reimburse a cost incurred by, an
5 23 individual financial institution, covered institution, or
5 24 other entity for the purpose of originating or administering
5 25 any scholarship, grant or loan, or otherwise directly or
5 26 indirectly affecting the borrower's choice of a loan.

5 27 4. Make a private educational loan for a borrower
5 28 attending a covered institution that exceeds the cost of
5 29 attendance minus other financial assistance the student is
5 30 expected to receive, as determined by the covered
5 31 institution's financial aid office. However, an exception to
5 32 this subsection may be made by a covered institution's
5 33 financial aid administrator on a case-by-case basis with
5 34 documentation of the borrower's financial history.

5 35 Sec. 5. NEW SECTION. 261E.4 COVERED INSTITUTION
6 1 PROHIBITIONS.

6 2 1. A covered institution shall not, directly or
6 3 indirectly, solicit, accept, or receive any gift from or on
6 4 behalf of a lending institution in exchange for any advantage
6 5 or consideration provided to such lending institution related
6 6 to its educational loan activities.

6 7 2. A covered institution shall not engage in revenue
6 8 sharing with a lending institution unless the revenue sharing
6 9 arrangement is not related to educational loan activities.

6 10 3. A covered institution shall not provide any advantage
6 11 or consideration to a lending institution related in any
6 12 manner to any gift from the lending institution to the covered
6 13 institution.

6 14 Sec. 6. NEW SECTION. 261E.5 PROHIBITION OF RECEIPT OF
6 15 GIFTS BY COVERED INSTITUTION EMPLOYEES.

6 16 1. A covered institution shall prohibit a covered
6 17 institution employee, on the employee's behalf or on behalf of
6 18 another, directly or indirectly, from soliciting, accepting,
6 19 or receiving any gift from or on behalf of a lending
6 20 institution. Nothing in this subsection shall be construed as
6 21 prohibiting a covered institution employee from conducting
6 22 business with a lending institution, provided that such
6 23 business is unrelated in any manner whatsoever to a covered
6 24 institution.

6 25 2. A covered institution employee, on the employee's
6 26 behalf or on behalf of another, shall not directly or
6 27 indirectly solicit, accept, or receive any gift from or on
6 28 behalf of a lending institution. Nothing in this subsection
6 29 shall be construed as prohibiting a covered institution
6 30 employee from conducting business with any lending
6 31 institution, provided that such business is unrelated in any
6 32 manner whatsoever with the covered institution.

6 33 3. A covered institution employee shall report to the
6 34 administrator any instance of a lending institution attempting
6 35 to give a gift to the covered institution employee.

7 1 Sec. 7. NEW SECTION. 261E.6 COVERED INSTITUTION EMPLOYEE

7 2 PROHIBITIONS AND REPORTING REQUIREMENTS.
7 3 1. A lending institution shall not provide any
7 4 remuneration or expense reimbursement to a covered institution
7 5 employee for serving as a member of or participant on an
7 6 advisory board of a lending institution.
7 7 2. A covered institution shall prohibit a covered
7 8 institution employee from receiving any remuneration for
7 9 serving as a member of or participant on an advisory board of
7 10 a lending institution or receiving any reimbursement of
7 11 expenses for so serving, notwithstanding section 261.4, if the
7 12 employee has any financial interest in the lending institution
7 13 related in any manner whatsoever to educational loans.
7 14 3. Nothing in this section shall be construed as
7 15 prohibiting any of the following:
7 16 a. A covered institution employee's participation on an
7 17 advisory board of a lending institution that is unrelated in
7 18 any manner whatsoever to educational loans.
7 19 b. A covered institution employee, who does not have a
7 20 direct interest in or does not benefit from the functions of
7 21 the covered institution's financial aid office, from serving
7 22 on a board of directors of a publicly traded or privately held
7 23 company.
7 24 4. A covered institution employee who is directly involved
7 25 with or benefits from the functions of the covered
7 26 institution's financial aid office shall report to the
7 27 administrator, in a form and manner prescribed by the
7 28 administrator, all participation or financial interests
7 29 related to any lending institution.
7 30 5. A covered institution employee shall report to the
7 31 institution's administration any instance of a lending
7 32 institution attempting to give a gift to the employee.
7 33 However, this subsection shall not apply to a gift the
7 34 employee may receive from a lending institution if the gift is
7 35 available or distributed free of charge to members of the
8 1 general public without regard to the employment status of the
8 2 individual.
8 3 Sec. 8. NEW SECTION. 261E.7 MISLEADING IDENTIFICATION ==
8 4 COVERED INSTITUTION == LENDING INSTITUTIONS' EMPLOYEES.
8 5 1. A lending institution shall prohibit an employee or
8 6 agent of the lending institution from being identified to
8 7 borrowers or prospective borrowers of a covered institution as
8 8 an employee, representative, or agent of the covered
8 9 institution.
8 10 2. A covered institution shall prohibit an employee or
8 11 agent of a lending institution from being identified as an
8 12 employee, representative, or agent of the covered institution.
8 13 3. An employee, representative, or agent of a lending
8 14 institution shall not staff a covered institution's financial
8 15 aid offices and shall not prepare any of the covered
8 16 institution's materials.
8 17 4. A covered institution shall prohibit the use of the
8 18 institution's name or insignia by lending institutions, except
8 19 that the covered institution may allow the use of its name if
8 20 the materials on which the name is included conspicuously
8 21 displays a disclaimer which clearly states that the materials
8 22 are not provided by a state agency or by the covered
8 23 institution and that the lending institution is not affiliated
8 24 with a state agency or the covered institution.
8 25 Sec. 9. NEW SECTION. 261E.8 LOAN DISCLOSURE == LOAN
8 26 PACKAGING == PROHIBITION OF QUID PRO QUO HIGH-RISK LOANS.
8 27 1. A covered institution shall inform the borrower or
8 28 prospective borrower of all available state education
8 29 financing options, and financing options under title IV of the
8 30 federal Higher Education Act of 1965, as amended, including
8 31 information on any terms and conditions of available loans
8 32 under such title that are more favorable to the borrower, and
8 33 the borrower shall exhaust, to the extent possible, all
8 34 opportunities for state and federal education financing
8 35 options before a lending institution may provide a private
9 1 educational loan to a borrower attending a covered institution
9 2 with which a lending institution has an educational loan
9 3 arrangement. However, an exception to this subsection may be
9 4 made by a covered institution's financial aid administrator on
9 5 a case-by-case basis with documentation of the borrower's
9 6 financial history.
9 7 2. Neither a lending institution nor a covered institution
9 8 shall enter into an agreement or otherwise provide any
9 9 high-risk loans in exchange for the covered institution
9 10 providing concessions or promises to the lending institution
9 11 that may prejudice other borrowers or prospective borrowers.
9 12 3. A covered institution shall not include a private

9 13 educational loan in a financial aid package presented to a
9 14 borrower unless the borrower is ineligible for federal
9 15 assistance under Title IV of the federal Higher Education Act
9 16 of 1965, as amended, and the inclusion of the private
9 17 educational loan in the financial aid package is clearly and
9 18 conspicuously disclosed to the borrower prior to the
9 19 acceptance of the offer of the financial aid package by the
9 20 borrower.

9 21 4. A covered institution shall prohibit the bundling of
9 22 private educational loans in financial aid packages, unless
9 23 the borrower is ineligible for financing under Title IV of the
9 24 federal Higher Education Act of 1965, as amended, and the
9 25 bundling of the private educational loans is clearly and
9 26 conspicuously disclosed to the borrower prior to acceptance of
9 27 the package by the borrower.

9 28 Sec. 10. NEW SECTION. 261E.9 STANDARDS FOR PREFERRED
9 29 LENDER LISTS.

9 30 A covered institution that provides or makes available a
9 31 preferred lender list shall comply with all of the following
9 32 standards:

9 33 1. A preferred lender list shall disclose the process by
9 34 which the covered institution selected lending institutions
9 35 for such preferred lender list, including, but not limited to,
10 1 the method and criteria used to choose the lending
10 2 institutions and the relative importance of those criteria.

10 3 2. A preferred lender list shall state in the same font
10 4 size and same manner as the predominant text on the document
10 5 that borrowers have the right and ability to select the
10 6 education loan provider of their choice, are not required to
10 7 use any of the lenders on such preferred lender list, and will
10 8 suffer no penalty for choosing a lender that is not on such
10 9 preferred lender list.

10 10 3. The covered institution's decision to include a lending
10 11 institution on any preferred lender list and the covered
10 12 institution's decision as to where on the preferred lender
10 13 list the lending institution's name appears shall be
10 14 determined solely by consideration of the best interests of
10 15 the borrowers who may use such preferred lender list without
10 16 regard to the pecuniary interests of the covered institution.

10 17 4. The contents of any preferred lender list shall be
10 18 reviewed and updated at least annually.

10 19 5. A lending institution shall not be placed on a
10 20 preferred lender list unless the lending institution does the
10 21 following:

10 22 a. Provides assurance to the covered institution and to
10 23 borrowers who take out loans from the lending institution that
10 24 the advertised benefits upon repayment will continue to inure
10 25 to the benefit of borrowers regardless of whether the lending
10 26 institution's loans are sold.

10 27 b. Discloses, clearly and conspicuously, in any
10 28 application for a private educational loan or solicitation for
10 29 a private educational loan the following:

10 30 (1) That federal education loans are less costly than
10 31 private educational loans unless the private educational loan
10 32 the borrower is applying for offers better terms than any
10 33 federal educational loans.

10 34 (2) The current rate of interest for federal education
10 35 loans.

11 1 (3) All rates and terms of the loan, including but not
11 2 limited to deferral options.

11 3 (4) The loan is not made, insured, or guaranteed under any
11 4 federal, state, or local government unit.

11 5 (5) Any substantive differences between loans authorized
11 6 under Title IV of the federal Higher Education Act of 1965, as
11 7 amended, and the private educational loans offered by the
11 8 lending institution.

11 9 (6) The borrower's total cost over the lifetime of the
11 10 loan.

11 11 6. A lending institution that, to the covered
11 12 institution's knowledge after reasonable inquiry, has an
11 13 agreement to sell its loans to another unaffiliated lending
11 14 institution shall not be included on a preferred lender list
11 15 unless such agreement is disclosed therein in the same font
11 16 size and same manner as the predominant text on the document
11 17 in which the preferred lender list appears.

11 18 7. A lending institution shall not be placed on a covered
11 19 institution's preferred lender lists or in favored placement
11 20 on a covered institution's preferred lender lists for a
11 21 particular type of loan, in exchange for benefits provided to
11 22 the covered institution or to the covered institution's
11 23 students in connection with a different type of loan.

11 24 Sec. 11. NEW SECTION. 261E.10 DISCLOSURE REQUESTS.
11 25 Except for educational loans made, insured, or guaranteed
11 26 by the federal government, a lending institution shall, upon
11 27 receiving a request from a borrower, covered institution, or
11 28 government entity, disclose to the requester in reasonable
11 29 detail and form, the historic default rates of the borrowers
11 30 from such covered institution, and the rates of interest
11 31 charged to borrowers from such covered institution in the year
11 32 preceding the disclosures and the number of borrowers
11 33 obtaining each rate of interest.

11 34 Sec. 12. NEW SECTION. 261E.11 PENALTIES.

11 35 1. If after providing notice and an opportunity for a
12 1 hearing the administrator determines that a covered
12 2 institution or lending institution has violated a provision of
12 3 this chapter, the covered institution or lending institution
12 4 may be liable for a civil penalty of up to fifteen thousand
12 5 dollars. In taking action against a covered institution or
12 6 lending institution, consideration shall be given to the
12 7 nature and severity of a violation of this chapter.

12 8 2. If after providing notice and an opportunity for a
12 9 hearing the administrator determines that a covered
12 10 institution employee has violated a provision of this chapter,
12 11 the covered institution employee may be liable for a civil
12 12 penalty of up to seven thousand five hundred dollars. In
12 13 taking action against a covered institution employee,
12 14 consideration shall be given to the nature and severity of a
12 15 violation of this chapter.

12 16 3. If after providing notice and an opportunity for a
12 17 hearing the administrator determines that a lending
12 18 institution has violated a provision of this chapter, such
12 19 lending institution shall not be placed or remain on any
12 20 covered institution's preferred lender list unless notice of
12 21 such violation is provided to all potential borrowers of the
12 22 covered institution.

12 23 4. Nothing in this section shall prohibit the
12 24 administrator from reaching a settlement agreement with a
12 25 covered institution, covered institution employee, or lending
12 26 institution in order to effectuate the purposes of this
12 27 section. Provided, however, if such settlement agreement is
12 28 reached with a covered institution or lending institution, the
12 29 administrator shall provide notice of such action to the
12 30 borrowers in a form and manner prescribed by the
12 31 administrator.

12 32 5. The administrator shall deposit the funds generated
12 33 pursuant to this section into the student lending education
12 34 fund, created in section 261E.13. Such funds shall be given
12 35 to covered institutions upon application to the attorney
13 1 general for the purposes provided pursuant to section 261E.13.

13 2 6. A violation of this chapter by a lending institution is
13 3 a violation of chapter 537 as provided in section 537.5201,
13 4 subsection 1A.

13 5 Sec. 13. NEW SECTION. 261E.12 RULES AND REGULATIONS.

13 6 The attorney general shall promulgate rules and regulations
13 7 necessary for the implementation of this chapter.

13 8 Sec. 14. NEW SECTION. 261E.13 STUDENT LENDING EDUCATION
13 9 FUND.

13 10 1. There is established in the state treasury a student
13 11 lending education fund.

13 12 2. The fund shall consist of all revenues generated
13 13 pursuant to section 261E.11 and all other moneys credited or
13 14 transferred to the fund from any other fund or source pursuant
13 15 to law.

13 16 3. Moneys in the fund shall be made available to the
13 17 attorney general for the purpose of enforcing this chapter.

13 18 Sec. 15. NEW SECTION. 261E.14 EFFECT ON OTHER LAWS OR
13 19 REGULATIONS.

13 20 This chapter shall not be interpreted to affect the
13 21 liability of any person, covered institution, or lending
13 22 institution under any other state statute or rule.

13 23 Sec. 16. Section 537.5201, Code 2007, is amended by adding
13 24 the following new subsection:

13 25 NEW SUBSECTION. 1A. A violation of chapter 261E by a
13 26 lending institution which also constitutes a violation of this
13 27 chapter is subject to the penalties and remedies provided in
13 28 this chapter.

13 29 Sec. 17. ATTORNEY GENERAL SECONDARY MARKET INVESTIGATION
13 30 REPORT.

13 31 1. The attorney general shall submit the findings and
13 32 recommendations resulting from the investigation of the
13 33 student loan secondary market and the Iowa student loan
13 34 liquidity corporation to the general assembly by January 15,

13 35 2009.

14 1 2. The attorney general shall present the findings and
14 2 recommendations resulting from the investigation of the
14 3 student loan secondary market and the Iowa student loan
14 4 liquidity corporation to the legislative government oversight
14 5 committee at the committee's October 2008 meeting.

14 6 EXPLANATION

14 7 This bill relates to protection of students and parents
14 8 from certain lenders and institutions of higher education with
14 9 conflicts of interest, requires the Iowa student loan
14 10 liquidity corporation to comply with the open meetings and
14 11 open records laws and to report to the general assembly,
14 12 requires institutions of higher education, in consultation
14 13 with the college student aid commission, to adopt a financial
14 14 aid code of conduct, establishes penalties, and establishes a
14 15 student lending education fund under the control of the
14 16 attorney general. The bill includes the following:

14 17 IOWA STUDENT LOAN LIQUIDITY CORPORATION. The corporation
14 18 is directed to comply with the open meetings and records laws;
14 19 submit a report to the governor, general assembly, and the
14 20 auditor of state setting forth the corporation's operations
14 21 and activities, the outlook for the future, and a description
14 22 of how the corporation's activities serve its nonprofit
14 23 mission; and file its annual audit with the office of auditor
14 24 of state. The designation of the student loan secondary
14 25 market and the operations of the corporation shall be subject
14 26 to annual legislative review. The corporation's obligations
14 27 are declared not to be obligations of the state or any
14 28 political subdivision.

14 29 STUDENT LOAN PROTECTIONS. New Code chapter 261E includes
14 30 the following components:

14 31 DEFINITIONS. The bill defines "covered institution" as any
14 32 educational institution that offers a postsecondary
14 33 educational degree, certificate, or program of study and
14 34 receives certain federal or state funding or assistance. The
14 35 term includes an agent of the educational institution,
15 1 including an alumni association, booster club, or other
15 2 organization directly or indirectly associated with the
15 3 institution. The bill defines "borrower" to include a student
15 4 or the student's parent or a person in a parental relation to
15 5 the student.

15 6 CODE OF CONDUCT. The bill requires institutions of higher
15 7 education with students who receive federal or private
15 8 educational loans, in consultation with the college student
15 9 aid commission, to adopt financial aid codes of conduct
15 10 governing educational loan activities.

15 11 GIFTS AND REMUNERATION PROHIBITED. The bill prohibits a
15 12 lending institution from providing a covered institution with
15 13 a gift in exchange for any advantage or consideration relating
15 14 to the lending institution's educational loan activities and
15 15 from revenue sharing. Likewise, the bill prohibits a covered
15 16 institution and its employees from accepting or soliciting a
15 17 gift from a lending institution for any advantage or
15 18 consideration relating to the lending institution's
15 19 educational loan activities and from educational loan revenue
15 20 sharing with the lending institution. However, nothing in the
15 21 bill prohibits a covered institution employee from conducting
15 22 business with a lending institution unrelated to a covered
15 23 institution.

15 24 GIFT REPORTING. Covered institution employees are required
15 25 to report to the administrator (attorney general) any instance
15 26 of a lending institution attempting to give a gift to such
15 27 covered institution employees.

15 28 ADMINISTRATOR. The administrator of the Code chapter is
15 29 the attorney general or the attorney general's designee.
15 30 However, the bill authorizes the attorney general to charge
15 31 the college student aid commission or the superintendent of
15 32 banking, credit unions, or savings and loans with enforcing
15 33 the chapter, and the attorney general is required to adopt
15 34 rules to implement the Code chapter.

15 35 PROHIBITIONS. An employee of a covered institution is
16 1 prohibited from receiving remuneration or expense
16 2 reimbursement for serving as a member or participant of an
16 3 advisory board of a lending institution. Covered institutions
16 4 are prohibited from including a private loan in a borrower's
16 5 financial aid package unless the borrower is ineligible for
16 6 federal student loans and the private loan is conspicuously
16 7 disclosed. Lending institutions are prohibited from providing
16 8 remuneration or expense reimbursement to a covered institution
16 9 employee for serving as a member or participant of an advisory
16 10 board of a lending institution.

16 11 EMPLOYEE DISCLOSURE OF BENEFIT. Covered institution
16 12 employees who are directly involved with or benefit from the
16 13 functions of the covered institution's financial aid office
16 14 are required to report to the administrator all participation
16 15 or financial interests related to any lending institution.
16 16 MISREPRESENTATION PROHIBITED. A lending institution is
16 17 prohibited from representing its employees or agents to
16 18 borrowers or prospective borrowers of a covered institution as
16 19 employees, representatives, or agents of a covered
16 20 institution. Employees or agents of a covered institution are
16 21 also prohibited from identifying themselves as employees or
16 22 agents of a lending institution to borrowers or prospective
16 23 borrowers of the covered institution. The covered institution
16 24 must prohibit the use of its name or insignia by a lending
16 25 institution.
16 26 FINANCIAL AID STAFFING PROHIBITION. An employee,
16 27 representative, or agent of a lending institution is
16 28 prohibited from staffing a covered institution's financial aid
16 29 offices or from preparing a covered institution's materials.
16 30 DISCLOSURE OF FAVORABLE LOAN OPTIONS. A covered
16 31 institution must inform the borrower or prospective borrower
16 32 of all available federal financing options that are more
16 33 favorable to the borrower and the borrower must exhaust all
16 34 state and federal options before a lending institution may
16 35 provide a private educational loan to a borrower attending a
17 1 covered institution with which a lending institution has an
17 2 educational loan arrangement. A covered institution's
17 3 financial aid office is prohibited from including a private
17 4 loan or bundling private loans in a financial aid package,
17 5 unless the borrower is ineligible for federal assistance.
17 6 HIGH-RISK LOAN PROHIBITION. Lending institutions and
17 7 covered institutions are prohibited from entering into an
17 8 agreement, or otherwise providing any high-risk loans, in
17 9 exchange for the covered institution providing concessions or
17 10 promises to the lending institution that may prejudice other
17 11 borrowers or prospective borrowers.
17 12 PREFERRED LENDER LIST STANDARDS. The bill establishes a
17 13 number of standards with which a covered institution that
17 14 provides or makes available a preferred lender list must
17 15 comply. A lending institution that violates a provision of
17 16 the bill shall not be placed or remain on any covered
17 17 institution's preferred lender list unless notice of the
17 18 violation is provided to all potential borrowers.
17 19 DEFAULT RATE DISCLOSURE. Lending institutions must
17 20 disclose to covered institutions the historic default rates of
17 21 the borrowers and the rates of interest charged to borrowers
17 22 from such covered institution in the year preceding the
17 23 disclosures and the number of borrowers obtaining each rate of
17 24 interest.
17 25 PENALTIES. An institution that violates a provision of the
17 26 bill may be liable for a civil penalty of up to \$15,000. A
17 27 covered institution employee who violates a provision of the
17 28 bill may be liable for a civil penalty of up to \$7,500.
17 29 A violation of new Code chapter 261E by a lending
17 30 institution which also constitutes a violation of the state
17 31 consumer credit code is subject to the penalties and remedies
17 32 established in Code chapter 537.
17 33 FUND USE. Funds collected which result from the imposition
17 34 of penalties are to be deposited in the student lending
17 35 education account, which is established in the state treasury
18 1 and is available to the attorney general.
18 2 ATTORNEY GENERAL REPORT AND PRESENTATION. The attorney
18 3 general is directed to submit the findings and recommendations
18 4 from its investigation of the student loan secondary market
18 5 and Iowa student loan liquidity corporation to the general
18 6 assembly by January 15, 2009, and to present the findings and
18 7 recommendations at the legislative oversight committee's
18 8 October 2008 meeting.
18 9 LSB 5962HV 82
18 10 kh/nh/8